

The Hon. Robert S. Lasnik

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,
Plaintiff,
v.
MICHAEL D. MACKAY,
Defendant.

NO. CR23-102-RSL

PRELIMINARY ORDER OF FORFEITURE

THIS MATTER comes before the Court on the United States' Motion for a Preliminary Order of Forfeiture, seeking to forfeit, to the United States, Defendant Michael D. Mackay's interest in the following property (the "Subject Property"):

- a. Approximately \$3,800 in U.S. currency, seized on or about May 17, 2023;
 - b. Approximately \$3,286.58 in U.S. funds seized from U.S. Bank account ending -2225, on or about June 28, 2023; and
 - c. Approximately \$55,000 in U.S. funds seized from U.S. Bank account ending -2189, on or about August 2, 2023.

25 The Court, having reviewed the United States' motion, as well as the other papers
26 and pleadings filed in this matter, hereby FINDS entry of a Preliminary Order of
27 Forfeiture is appropriate because:

- 1 • Any property consisting or derived from proceeds of the offense of Bank
2 Fraud, in violation of 18 U.S.C. § 1344, is subject to forfeiture pursuant to
3 18 U.S.C. § 982(a)(2); and
- 4 • Pursuant to the Plea Agreement he entered on March 26, 2024, the
5 Defendant agreed to forfeit the Subject Property, which constitutes or is
6 derived from proceeds of his commission of Bank Fraud. Dkt. No. 28 ¶ 14.

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8 **NOW, THEREFORE, THE COURT ORDERS:**

9 1. Pursuant to 18 U.S.C. 982(a)(2) and his Plea Agreement, Defendant
10 Mackay's interest in the Subject Property is fully and finally forfeited, in its entirety, to
11 the United States;

12 2. Pursuant to Fed. R. Crim. P. 32.2(b)(4)(A)-(B), this Preliminary Order will
13 be final as to the Defendant at the time he is sentenced, it will be made part of the
14 sentence, and it will be included in the judgment;

15 3. The United States Department of Justice, the United States Postal
16 Inspection Service, and/or its authorized agents or representatives, shall maintain the
17 Subject Property in its custody and control until further order of this Court.

18 4. This forfeiture is separate and distinct from any restitution that is ordered in
19 this case.

20 5. Pursuant to Fed. R. Crim. P. 32.2(b)(6) and 21 U.S.C. § 853(n),
21 United States shall publish notice of this Preliminary Order and its intent to dispose of the
22 property as permitted by governing law. The notice shall be posted on an official
23 government website – currently www.forfeiture.gov – for at least thirty (30) days. For
24 any person known to have alleged an interest in the property, the United States shall, to
25 the extent possible, provide direct written notice to that person. The notice shall state that
26 any person, other than the Defendant, who has or claims a legal interest in the property
27 must file a petition with the Court within sixty (60) days of the first day of publication of

1 the notice (which is thirty (30) days from the last day of publication), or within thirty (30)
2 days of receipt of direct written notice, whichever is earlier. The notice shall advise all
3 interested persons that the petition:

- 4 a. shall be for a hearing to adjudicate the validity of the petitioner's
5 alleged interest in the property;
- 6 b. shall be signed by the petitioner under penalty of perjury; and,
- 7 c. shall set forth the nature and extent of the petitioner's right, title, or
8 interest in the property, as well as any facts supporting the petitioner's claim and the
9 specific relief sought.

10 6. If no third-party petition is filed within the allowable time period, the
11 United States shall have clear title to the property, and this Preliminary Order shall
12 become the Final Order of Forfeiture as provided by Fed. R. Crim. P. 32.2(c)(2);

13 7. If a third-party petition is filed, upon a showing that discovery is necessary
14 to resolve factual issues it presents, discovery may be conducted in accordance with the
15 Federal Rules of Civil Procedure before any hearing on the petition is held. Following
16 adjudication of any third-party petitions, the Court will enter a Final Order of Forfeiture,
17 pursuant to Fed. R. Crim. P. 32.2(c)(2) and 21 U.S.C. § 853(n), reflecting that
18 adjudication; and,

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1 8. The Court will retain jurisdiction for the purpose of enforcing this
2 Preliminary Order, adjudicating any third-party petitions, entering a Final Order of
3 Forfeiture, and amending the Preliminary Order or Final Order as necessary pursuant to
4 Fed. R. Crim. P. 32.2(e).

5 IT IS SO ORDERED.

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7 DATED this 3rd day of July, 2024.

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THE HON. ROBERT S. LASNIK
UNITED STATES DISTRICT JUDGE

11 Presented by:

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